

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**IN THE MATTER OF THE COMPLAINT
OF SUSAN ADAM AS OWNER OF THE
2016 21' NITRO BAY TRACKER,
PETITIONING FOR EXONERATION
FROM OR LIMITATION OF LIABILITY**

CAUSE NO. 3:18-CV-205-CWR-LRA

ORDER

Before the Court is Lorenzo Evans' motion to dismiss for lack of jurisdiction. The matter is fully briefed and ready for adjudication.

According to the amended complaint filed by Susan and Bryant Adam, this limitation action arises from a 2016 boating accident between Bryant Adam and Lorenzo Evans on the upper Pearl River in Rankin County, Mississippi. The Adams alleged that the upper Pearl River is a navigable waterway. Evans disagrees. He argues that a nearby "spillway/dam" renders the waterway non-navigable, which if true means there is no admiralty jurisdiction.

The applicable standard of review and substantive law are recited in *Dunaway v. United States*, No. 98-2035, 2000 WL 1741870 (E.D. La. Nov. 20, 2000). In short, the Court may review the record evidence to determine whether the waters where this accident occurred are currently "capable, in fact, of navigation in interstate travel or commerce." *Id.* at *3 (quoting *Sanders v. Placid Oil Co.*, 861 F.2d 1374, 1377 (5th Cir. 1988)).

Evans has attached the report of an expert who concludes that the upper Pearl River is non-navigable due to dams on either end of the Ross Barnett Reservoir; that it is a territorial water of the State of Mississippi and used for recreational purposes. No commercial traffic is conducted on this body of water. The Adams have not presented any contrary evidence. They rely on various federal regulations outlining, among other things, the jurisdiction of the Coast

Guard and the Corps of Engineers. But there is no real dispute on the salient issue. The waters where this accident occurred are not currently capable of navigation in interstate travel or commerce. Accordingly, the Court lacks admiralty jurisdiction.

The motion is granted. A separate Final Judgment shall issue.

SO ORDERED, this the 1st day of May, 2018.

s/ Carlton W. Reeves
UNITED STATES DISTRICT JUDGE